

REMARKS

Claims 1-21 are currently pending in this application. Applicants have carefully reviewed the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Statement Regarding Common Ownership or Obligation of Assignment

David Sarisky, an attorney of record for the present U.S. Patent Application 10/769,165 ("the `165 application"), states that the `165 application and U.S. Patent No. 6,881,192 (Park), were at the time the invention of the `165 application was made, owned by Pacesetter, Inc. or subject to an obligation of assignment to Pacesetter, Inc.

Claim Rejections Under 35 U.S.C. §103

Claims 1-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,881,192 (Park) in view of U.S. Patent No. 6,580,944 (Katz).

Without addressing the merits of the rejection of claims 1-21, in accordance with the American Inventors Protection Act, Park does not qualify as prior art under 35 U.S.C. §103(a) via 35 U.S.C. §102(e) because the `165 application was filed on or after November 29, 1999 and the subject matter of Park and pending claims 1-21 were, at the time the invention was made, owned by or subject to an obligation of assignment to the same organization (see above "Statement Regarding Common Ownership or Obligation of Assignment"). In view of the foregoing, Applicants request withdrawal of the §103 rejections of claims 1-21.

CONCLUSION

Applicants have made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicants' claims 1-21 is believed to be in order.

Respectfully submitted,

21 Jun 2006
Date

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